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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12 SUCCESSFACTORS, INC., a Delaware  
13 corporation,

14 Plaintiff,

15 v.

16 SOFTSCAPE, INC., a Delaware  
17 corporation, and DOES 1-10, inclusive,

18 Defendants.

Case No. CV 08 1376 CW

**PLAINTIFF'S MOTION FOR ORDER  
PERMITTING ISSUANCE OF TWO SUBPOENAS  
ON SHORTENED TIME**

Date of Filing: March 11, 2008

Trial Date: No date set

19 Pursuant to Federal Rules of Civil Procedure 26(d), 30(a), and 34, and Civil Local Rules  
20 6 and 37, Plaintiff SuccessFactors, Inc. ("SuccessFactors") hereby moves the Court for an order  
21 of relief from the presumptive statutory stay of formal discovery prior to the initial Rule 26(f)  
22 conference to allow SuccessFactors to immediately serve two additional subpoenas. The  
23 subpoenas are crucial to determine the identity of the "anonymous" sender of the Presentation at  
24 issue in this action from the Gmail account from which it was transmitted. Plaintiff respectfully  
25 requests such discovery to be completed before the preliminary injunction hearing currently set  
26 for March 27, 2008. Defendant Softscape, Inc. does not oppose Plaintiff's motion.

27 As the Court is aware, the Presentation was transmitted from a Gmail account in the name  
28 of "John Anonymous" <[hcmknowledge2008a@gmail.com](mailto:hcmknowledge2008a@gmail.com)> on March 4, 2008. See Declaration of

1 Rob Bernshteyn in Support of Application for Temporary Restraining Order (“Bernshteyn Decl.”)  
2 (Dkt. No. 17), Ex. A. Google, the host of Gmail, will have certain registration information  
3 provided by the holder of the John Anonymous account. Although this registration information is  
4 likely fictitious, Google should also have collected one or more IP addresses from which the holder  
5 of the account communicated. With those IP addresses, the internet service provider (“ISP”) for  
6 such addresses can be identified, and through a subpoena to such ISP(s), the user of each address  
7 may also be identified.

8 The Court previously approved of Plaintiff’s issuance of two subpoenas to the ISPs for  
9 IP addresses that communicated with Plaintiff’s servers and with the ACE275 sales demo account  
10 from which Softscape obtained content that was reproduced in the Presentation. These subpoenas  
11 did not address the Gmail account, which was the subject of proposed discovery in this action  
12 directed to Defendant Softscape. Because the Court did not yet generally approve Plaintiff’s  
13 requests for expedited discovery from Defendant, additional information about use of the Gmail  
14 account will not be forthcoming from those previously approved subpoenas.

15 Plaintiff respectfully submits that it would be helpful for the Court to have information  
16 about control of the Gmail account prior to the March 27, 2008 hearing on the preliminary  
17 injunction. Further, Google or the ISPs may not retain IP address logs indefinitely, making  
18 prompt service of a subpoena appropriate. Accordingly, Plaintiff requests that the Court approve  
19 of issuance of subpoenas to Google and to the ISPs identified for the IP addresses through which  
20 the “John Anonymous” communicated with Google, in the form attached as Exhibits A and B.

21 In light of the fact that Defendant Softscape, Inc. asserts that it did not authorize distribution  
22 of the Presentation that it created, Plaintiff has requested that Defendant stipulate to the issuance of  
23 these subpoenas. Defendant confirmed that it does not oppose SuccessFactors’ request for the two  
24 additional subpoenas. *See* Declaration of C. William Craycroft in Support of Plaintiff’s Motion for  
25 an Order Permitting Issuance of Two Subpoenas on Shortened Time at ¶ 6. Plaintiff has set forth a  
26 schedule that would permit the information to be received by the parties and this Court in time for  
27 the upcoming preliminary injunction hearing.

28 ///

1 Plaintiff therefore requests that the Court enter its order approving issuance of the two  
2 subpoenas in the forms attached as Exhibits A and B.

3  
4 Dated: March 17, 2008

LAW OFFICES OF C. WILLIAM CRAYCROFT

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6 By: /s/ C. William Craycroft  
7 C. William Craycroft  
8 Attorneys for Plaintiff SUCCESSFACTORS, INC.

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13 corporation,

14 Plaintiff,

15 v.

16 SOFTSCAPE, INC., a Delaware  
corporation, and DOES 1-10, inclusive,

17 Defendants.

Case No. CV 08 1376 CW

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR AN ORDER  
PERMITTING ISSUANCE OF TWO SUBPOENAS  
ON SHORTENED TIME**

Date of Filing: March 11, 2008  
Trial Date: No date set

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19 On March \_\_, 2008 before the Honorable Claudia Wilken, the Court heard Plaintiff  
20 SuccessFactors, Inc.'s ("SuccessFactors") Motion for an Order Permitting Issuance of Two  
21 Subpoenas on Shortened Time, with notice to and no opposition by Defendant Softscape.

22 Having reviewed and considered all papers on file, and the matter having been submitted  
23 without opposition, the Court finds that Plaintiff has presented good cause for the issuance of the  
24 proposed subpoenas upon Google, Inc. and the Internet Service Provider ("ISP") used by the  
25 anonymous sender of the PowerPoint Presentation at issue in this action. The motion is granted as  
26 follows:

27 1. Google, Inc. shall provide a written response and responsive documents to  
28 SuccessFactors' proposed subpoena by noon on March 20, 2008.

1           2.       The ISP identified in Google's log records in connection with  
2       [hcmknowledge2008a@gmail.com](mailto:hcmknowledge2008a@gmail.com) shall provide a written response and responsive documents to  
3       SuccessFactors' proposed subpoena by 9:00 am on March 25, 2008.

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5       Dated: \_\_\_\_\_

By: \_\_\_\_\_  
The Honorable Claudia Wilken  
United States District Judge

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